

COMMUNITY AFFAIRS

Division Of Codes And Standards

Condominium, Fee Simple and Cooperative Conversion and Mobile Home Park Retirement

Proposed Readoption: N.J.A.C. 5:24

Authorized By: Susan Bass Levin, Commissioner, Department of Community
Affairs.

Authority: N.J.S.A. 2A:18-61.12, 2A:18-61.38 and 2A:18-61.59.

Proposal Number: PRN 2005-

Calendar: Reference: See Summary below for explanation of exception to calendar
requirement..

Submit written comments by April 22, 2005 to:

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SUSAN BASS LEVIN, Commissioner

The agency proposal follows.

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the Condominium, Fee Simple and Cooperative
Conversion and Mobile Home Park Retirement rules, N.J.A.C. 5:1, are scheduled to

expire on December 5, 2005. The Department has reviewed these rules and finds that they continue to be necessary for the purpose for which they were promulgated and is therefore proposing that they be readopted.

The chapter proposed for readoption includes subchapters containing general provisions, rules on senior citizens and disabled protected tenancy and protected tenancy in "qualified counties," which are so defined in terms of population numbers and density as to include only Hudson County. These rules are necessary for the implementation of P.L. 1975, c.311, which provides protection for eviction for between three and eight years of tenants, regardless of age, condition or income, whose rental units are converted to a condominium, cooperative or fee simple form of ownership; of P.L. 1981, c.8, which provides protection to owners of mobile homes in mobile home parks being permanently retired from the rental market; of P.L. 1981, c.226, which protects senior citizen and disabled tenants who meet income and residency requirements from eviction for up to 40 years; and of P.L. 1991, c.509, which extends eligibility for protected tenancy in "qualified counties" to include persons who would not otherwise meet age and/or income requirements.

Subchapter 1, General Provisions, includes requirements for the "notice of intent" and "full plan of conversion" that must be furnished to tenants. It also specifies what constitutes the "comparable housing" that is required to be offered to tenants and what a "reasonable opportunity to examine and rent" such housing must involve. It also includes procedural requirements and sets forth standards of fair dealing applicable to any conversion.

Subchapter 2 implements the "Senior Citizens and Disabled Protected Tenancy Act," P.L. 1981, c.226. It prescribes the content of application forms, the application procedure, requirements for eligibility, subsequent determinations of ineligibility, rules for local administrative hearings, rules concerning rent increases, procedural requirements for owners, rules for certification by local administrative agencies and fees to be paid to those agencies.

Subchapter 3 supplements subchapter 2 by establishing additional procedures applicable to conversions in Hudson County, in accordance with P.L. 1991, c.509, and integrating them with existing procedures so as to avoid any unnecessary duplication.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

These rules implement statutes that provide protection against eviction for tenants whose units are converted to condominium, cooperative or fee simple ownership. The period of eviction varies depending on whether the tenant meets additional age, condition and income requirements or lives in Hudson County. It also implements statutory protections for mobile home owners who lease space in mobile home parks that are permanently retired from the rental market. These statutes allow time for the tenants to secure alternative housing or, if they qualify, allow them to remain in their units for an extended period of time. Readoption of these rules is necessary in order to provide

owners, tenants, converters and local administrators with the guidelines necessary to ensure proper and uniform implementation of the statutes.

Economic Impact

The rules proposed for readoption reduce the potential for uncertainty and confusion that could lead to costly and unnecessary litigation as parties attempt to sort out their statutory rights and obligations.

Federal Standards Statement

No Federal standards analysis is required because the rules proposed for readoption are not being proposed under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State statute that incorporates or refers to Federal law, standards or requirements.

Jobs Impact

The Department does not anticipate that the rules proposed for readoption would result in the creation or loss of any jobs.

Agricultural Industry Impact

The Department does not anticipate that the rules proposed for readoption would have any effect on the agricultural industry.

Regulatory Flexibility Statement

The rules proposed for readoption implement statutes that impose reporting, recordkeeping and compliance requirements on owners and converters of rental housing being converted to a condominium, cooperative or fee simple form of ownership or of mobile home parks being removed from the rental market. Tenants may not be removed unless and until specified procedures are followed. Records of delivery of required notices must be maintained, along with records indicating the age, disability status and income of tenants that are relevant to eligibility for protected tenancy. Records indicating compliance with protected tenancy rules must be filed with local administrative agencies and with the Planned Real Estate Development Section of the Bureau of Homeowner Protection of the Division of Codes and Standards.

Requirements include providing tenants with a notice of intent to convert and full plan of conversion, providing moving expenses to certain tenants, providing copies of N.J.A.C. 5:24 to certain tenants, conforming to standards of fair dealing, and providing notice of intention to file an application for registration of conversion, with supporting documentation, with the Planned Real Estate Development Section. Professional services, including those of attorneys and engineers, are needed in order to produce a full plan of conversion..

Many of the owners and converters subject to these rules are "small businesses," as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, since these rules implement statutory requirements, the Department cannot establish lesser requirements for such "small businesses." Moreover, the protection that must be provided to tenants and mobile home owners is the same, regardless of the size or form of organization of the owner or converter.

Smart Growth Impact

Readoption of these rules would not have any effect upon achievement of smart growth or implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:24.